

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COUNTY OF BUTLER, *et al*,

*Plaintiffs,*

v.

THOMAS W. WOLF, *et al*,

*Defendants.*

Civil Action No. 2:20-cv-677

Hon. William S. Stickman IV

**ORDER OF COURT**

Plaintiffs have filed a Motion to Reopen and Schedule Argument/Hearing on Motion for Attorneys' Fees. (ECF No. 106). Plaintiffs argue that "the Third Circuit did not decide the issue of counsel fees in this matter," and they "submit as the substantially prevailing party in the District Court, Plaintiffs' Motion for Attorneys' Fees is still viable." (*Id.* at ¶¶ 8, 11). Plaintiffs' position is inconsistent with the United States Court of Appeals for the Third Circuit's ("Third Circuit") Opinion. Specifically, because the case became moot while the appeal was pending, the Third Circuit never reviewed the merits of the appeal. It explained that, as a result, the Court's judgment was vacated: "[w]hen a case becomes moot while an appeal is pending, appellate courts generally follow the 'established practice' of vacating a district court's judgment with directions to dismiss." *Butler, et al. v. Wolf, et al.*, 8 F.4th 226, 231-32 (3d Cir. 2021) (citing *United States v. Munsingwear*, 340 U.S. 36, 39-40 (1950); *Khodara Env't, Inc. ex rel. Eagle Env't L.P. v. Beckman*, 237 F.3d 186, 194 (3d Cir. 2001)). This result stems from the recognition that "a judgment that is 'unreviewable because of mootness' should not 'spawn [ ] any legal consequences' for the party who sought reversal on appeal." *Id.* at 231-32 (citing *Munsingwear*, 340 U.S. at 41). Thus, the Third Circuit concluded and directed: "following

*Munsingwear*, we will vacate the judgment and remand to the District Court with instructions for it to dismiss the Complaint as moot.” *Id.* at 232 (citations omitted). Based on the doctrine set forth in *Munsingwear*, the Court’s judgment in favor of Plaintiffs was vacated and, therefore, cannot give rise to a claim for attorney fees.

AND NOW, this 16<sup>th</sup> day of September 2021, IT IS HEREBY ORDERED for the reasons set forth above, that Plaintiffs’ Motion to Reopen and Schedule Argument/Hearing on Motion for Attorneys’ Fees (ECF No. 106) is DENIED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W S STICKMAN IV", written over a horizontal line.

WILLIAM S. STICKMAN IV  
UNITED STATES DISTRICT JUDGE